

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.ESWARAIAH
WRIT PETITION NO : 5274 of 2004

Between:

A. Srinivas S/o. Srihari
R/o. Village, Wadicherla Post Mandal, Lingala Ghanpur District, Warangal.
..... PETITIONER

AND

- 1 The District Cooperative officer, Warangal District at Warangal.
 - 2 The Divisional Cooperative officer, Warangal District at Warangal.
 - 3 The Kundaram PACS Mandal, Lingala Ghanpur District Warangal.
- RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order more particularly one in the nature of Writ of Mandamus declaring the impugned action of the respondents 1 and 2 in issuing directions for terminating the services of the petitioners and consequential proceedings issued by the respondents society dated 17.3.2004 proposing the petitioners as arbitrary, illegal and violative of Article 14 and 21 of the Constitution of India and consequently set aside the same.

Counsel for the Petitioner:MR.V.S.K.RAMA RAO

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following :

ORDER:

The petitioner, who has been working as a Clerk in the 3rd respondent-Kundaram Primary Agricultural Cooperative Society, was terminated from his services through the order dated 17.3.2004 passed by the 3rd respondent-Society on the ground that the said appointment of the petitioner was made contrary to Act 2 of A.P. (Regulation of Appointments to Public Services and Rationalization of Staff Pattern and Pay Structure) Act, 1994 (for short 'Act 2 of 1994).

Learned counsel for the respondents submits that the services of the petitioner were terminated after following due procedure prescribed in law.

It is not in dispute that the employees of the Society are entitled to continue if they are appointed in the sanctioned post in respect of the staffing pattern fixed by the society as approved by the Registrar of Cooperative Societies, subject to

the condition that the expenditure of pay and allowances shall not exceed 2% of the working capital or 30% of the gross profit in terms of actuals in a year, whichever is less. It is also open for the Society to revise the staffing pattern and pay & allowances for fulfilling the said conditions of Section 116 (c) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). Merely because some of these employees have been appointed contrary to Act 2 of 1994, it cannot constitute a ground to remove their services as long as their appointment is in compliance of Section 116 (c) (1) of the Act. If it is a simple removal by the Society in compliance of Section 116 (c) (1) of the Act, this court would not have entertained the writ petition filed by its employee, but the action of the society is pursuant to the directions of the higher authorities for removing their employees, whose appointment was made contrary to Act 2 of 1994.

The writ petition is disposed of directing the 3rd respondent society to review the impugned order and take appropriate decision in conformity with Section 116 (c)(1) of the Act, giving the particulars of the staffing pattern fixed by them as approved by the Commissioner and Registrar of Cooperative Societies and pass appropriate orders in accordance with law.

No costs.

14.9.2004

cvm

To,

- 1 The District Cooperative officer, Warangal District at Warangal.
- 2 The Divisional Cooperative officer, Warangal District at Warangal.
- 3 The Kundaram PACS Mandal, Lingala Ghanpur District Warangal.
- 4 2 CCs to G.P. for Cooperation (OUT), High Court of A.P., Hyd.
- 5 2 CD copies